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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/963,734	09/26/2001	David A. Hammond	P1299CIP/CON	9668

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PATENT DOCKET DEPARTMENT  
GARDNER CARTON & DOUGLAS LLC  
191 N. WACKER DRIVE, SUITE 3700  
CHICAGO, IL 60606

EXAMINER

MOHANDESI, JILA M

ART UNIT	PAPER NUMBER
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3728

DATE MAILED: 08/04/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/963,734

Applicant(s)

HAMMOND, DAVID A.

Examiner

Jila M Mohandesi

Art Unit

3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 May 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Terminal Disclaimer***

1. The terminal disclaimer filed on 27 May 2003 disclaiming the terminal portion of any patent granted on this application, which would extend beyond the expiration date of U.S. Patent No. 6,460,702 has been reviewed and is accepted. The terminal disclaimer has been recorded.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Campiglia '194 in view of admitted Prior art, First Responder First Aid Kits (#1-#6), and the National Safety Council "First Aid Guide" cited by applicant. Campiglia '194 discloses a first aid kit carrying case defining an interior which includes means for providing quick access to the interior, the carrying case having a plurality of compartments arranged in a card catalogue/file cabinet-like array and a plurality of packs carried in the compartments. See Figure 1 embodiment and column 1, lines 35-42. Note that the folded regions/bellows of partition 12, 14 and the end walls, which are, folded accordion style. Campiglia '194 clearly teaches at column 1, lines 33-34, that first aid kit items "should be arranged so as to keep mistakes to minimum", and therefore the order of storing the plurality of packs would have been a design choice to one of

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ordinary skill in the art. Campiglia `194 does not appear to teach the first aid kit having a guidebook and matching instructional cards and icons and colors for the packs. The admitted Prior Art, First Responder First Aid Kits (# 1 - #6) contains a plurality of packs containing a plurality of products for management of a particular first aid situation, having an overview card (as seen inside the cover of kit #2) with coordinating colors and matching icons between the various associated medical packs, guidebook, overview card, and instructional cards, etc., of the First Aid Kit so that the contents could be identified and located more easily. The National Safety Council "First Aid Guide" clearly establishes that it is old to assess and treat victims according to a triage system. Therefore, it would have been obvious to one having ordinary skill in the art and in view of the admitted Prior Art, First Responder First Aid Kits (# 1 - #6) to provide a guidebook, overview card and instructional card having coordinating colors and matching icons between the packs and the guidebook, overview card and instructional card to the carrying cases of Campiglia `194 to help the user locate the medical packs and instructions more easily.

It further would have been a design choice and as conventional to take emergency priorities into account when arranging the items in Compiglia `194 "so as to keep possible mistakes to a minimum," as the reference instructs. A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the

intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963).

Claims 8-10 are directed to method of arranging the contents of a first aid kit and a method for administering first aid, which is inherent in the organizing and use of the first aid kit carrying case of Campiglia '194. With respect to claims 16-18, whether the material of the top is see-through or with indicia or any material would be a design choice as it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

With respect to claim 7, inasmuch as applicant has defined its carrying case to be an accordion style collapsible case, the carrying case of Campiglia '194 is also accordion style collapsible case.

#### ***Response to Arguments***

4. Applicant's arguments filed September 26, 2001 have been fully considered but they are not persuasive.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a

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reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

In response to applicant's arguments against the references individually, one cannot show non-obviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Contrary to applicant's argument the carrying case of Campiglia '194 does have folds and bends like bellows of an accordion.

### ***Conclusion***

5. Telephone inquiries regarding the status of application or other general questions, by persons entitled to the information "should be directed to the group clerical personnel and not to the Examiners. In as much as the official records and applications are located in the clerical section of the examining groups, the clerical personnel can readily provide status information without contacting the examiners", M.P.E.P. 203.08. The Group clerical receptionist number is (703) 308-1148 or the Tech Center 3700 Customer Service Center number is (703) 306-5648. For applicant's convenience, the Group Technological Center FAX number is (703) 872-9302. (Note that the Examiner cannot confirm receipt of faxes) Please identify Examiner Mohandesi of Art Unit 3728 at the top of your cover sheet of any correspondence submitted. Inquiries only concerning the merits of the examination should be directed to Jila

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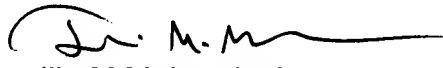
Mohandesi whose telephone number is (703) 305-7015. The examiner can normally be reached on Monday-Friday 7:30-4:00 (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on (703) 308-2672.

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g. copies of references cited, form PTO-1449, for PTO-892, etc. requests for copies of such papers should be directed to Donna Monroe at (703) 308-2209.

Check out our web-site at "www.uspto.gov" for fees and other useful information.

J. MOHANDESI  
PATENT EXAMINER

  
Jila M Mohandesi  
Examiner  
Art Unit 3728

JMM  
July 30, 2003